S.B. Civil Contempt Petition No.35/2007
in
S.B. Civil Second Appeal No.294/2002

Shanti Devi Vs. Mahesh Kumar

01.05.2007

Hon'ble Dr. Vineet Kothari, J.

Mr.Sudesh Bansal for the petitioner.
Mr.M.M. Ranjan for the respondent.

Heard learned counsels for the parties.

2. This contempt petition has been filed for non-compliance of the judgment/order of this Court dated 8.10.2004 disposing of the second appeal on the undertaking given by the defendant-tenant that he would hand over the vacant possession of the suit shop to the plaintiff-respondent on or before 31.12.2006, but he failed to do so. According to the petitioner, it was a deliberate disobedience of the said undertaking, which culminated into the disposal of the appeal by this Court.

3. Mr. Bansal, learned counsel appearing for the petitioner submits that since the defendant-respondent, Mahesh Kumar, did not hand over the vacant possession by the stipulated date i.e. 31.12.2006, he had to undertake the execution proceeding and only through the execution proceeding, the vacant possession of the suit shop was obtained

on 16.03.2007 only after breaking the interlock, which was found on the shutter of the shop in question.

4. Mr. Ranjan, learned counsel appearing for the respondent-contemnor submits that firstly, the respondent tenders unconditional apology for the alleged contempt committed by him. In the alternative, he submitted that the interlock was not put by the respondent-contemnor and he had, in fact, vacated the premises on the stipulated date itself.

5. This contention of learned counsel for the respondent-contemnor cannot be believed as he undertook before the Court to hand over the vacant possession of the suit shop to the plaintiff-landlord on or before the stipulated date. That undertaking clearly meant that the vacant and free possession of the suit shop shall be handed over by the defendant and it was not supposed to be locked and the defendant was not expected to leave the premises as it is without handing over the possession to the landlord. Therefore, this contention is rejected.

6. The respondent-contemnor is apparently found guilty of breach of the undertaking given before the Court and,

therefore, is liable to be punished for committing the contempt of court/undertaking given by him. However, taking a liberal view of the matter instead of punishing the respondent-contemnor with imprisonment, this Court considers it expedient to impose exemplary cost/fine on the respondent-contemnor, Mahesh Kumar. Accordingly, a sum of Rs.5,000/- is imposed as cost/fine on the respondent-contemnor for having breached the undertaking given before this Court in pursuance of the judgment/order dated 8.10.2004. The said cost would be paid by the respondent-contemnor, Mahesh Kumar, to the decree-holder- plaintiff, Smt. Shanti Devi, within a period of four weeks from today. In case, the same is not paid, he will undergo civil imprisonment for a period of 15 days.

The contempt petition is, accordingly, disposed of.

[**Dr. Vineet Kothari**],**J.**

S.S.
Jr.P.A.